

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

SHANNON WILLIAMS,	)	8:09CV282
	)	
Plaintiff,	)	
	)	
v.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
JEFFREY NEWTON, et al.,	)	
	)	
Defendants.	)	

This matter is before the court on Plaintiff's Notice and Amended Notice of Appeal. (Filing Nos. [12](#) and [14](#).) In his Notice of Appeal, Plaintiff argues the merits of his case and seeks to appeal the court's January 29, 2010, Memorandum and Order. (Filing Nos. [12](#) and [14](#).) However, that Memorandum and Order is not a final order, and judgment has not been entered in this matter.<sup>1</sup> Plaintiff's Notice of Appeal is therefore construed as a Motion for Interlocutory Appeal. As set forth in [28 U.S.C. § 1292\(b\)](#), an interlocutory appeal is warranted if the decision sought to be appealed involves a controlling question of law as to which substantial grounds for difference of opinion exist, so that an immediate appeal could materially advance the ultimate termination of this litigation. [28 U.S.C. §1292\(b\)](#).

Here, no such "controlling question of law" is implicated. The court's January 29, 2010, Memorandum and Order does not involve controlling questions of law as to which there is substantial ground for difference of opinion, and an immediate appeal would not materially advance the ultimate termination of this litigation.

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<sup>1</sup>Although the court has dismissed some, but not all, claims from this action, a judgment under [Federal Rule of Civil Procedure 54\(b\)](#) is not appropriate here. The dismissed claims and the pending claims have a common factual background and allowing one appeal to go forward while this case progresses is not in the interest of judicial economy.

Therefore, there is no reason why the present appeal should proceed prior to entry of a final judgment in this matter. For these reasons, Plaintiff's Notice of Appeal and Amended Notice of Appeal, construed as Motions for Interlocutory Appeal, are denied.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Notice of Appeal and Amended Notice of Appeal (filing nos. [12](#) and [14](#)), construed as Motions for Interlocutory Appeal, are denied. The Clerk of the court is directed not to process the Notice of Appeal.
2. In accordance with the court's previous Memorandum and Order, Plaintiff has until June 1, 2010, to complete service of process on the remaining Defendants.

DATED this 18<sup>th</sup> day of February, 2010.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge

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